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June 17, 1996

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W. - Room 222
Stop Code 1170
Washington, D.C. 20554

Re: Notice of Ex Parte Communication; Notice of Proposed Rulemaking and Order
Establishing Joint Board, CC Docket No. 96-45

Dear Mr. Caton:

Pursuant to Section 1.1206(a)(1) of the Commission's Rules, 47 C.F.R. Section 1.1206(a)(1), Western Wireless Corporation ("Western Wireless") hereby submits written *ex parte* comments in CC Docket No. 96-45. Western Wireless believes that recent events in Hawaii illustrate that residents of rural and high-cost areas will benefit from a competitive universal service market and that incumbent local exchange carriers ("LECs") will likely oppose efforts to bring competition to this segment of the market, much like they opposed, and continue to oppose, efforts to bring competition to other segments of the local exchange market.

On April 30, 1996, the Hawaii Public Utilities Commission ("HPUC") released a Request for a Proposal To Provide Telecommunications Service for Ka'u, Island of Hawaii ("RFP") (*see* Attachment A). This RFP was the culmination of a lengthy proceeding by the HPUC -- a proceeding initiated on September 29, 1992 to investigate the provision of telephone service by GTE Hawaiian Telephone Incorporated ("GTE") in rural areas of the State of Hawaii. On November 2, 1994, the HPUC concluded that telephone service in rural areas of Hawaii is less than adequate and ordered GTE to develop a plan to upgrade its facilities and services. In disregard of the HPUC's order and the interests of rural residents of Hawaii, GTE did not develop an appropriate plan to provide rural residents of Hawaii with adequate telecommunications service. Following an evidentiary hearing, the HPUC concluded that a competitive bidding process should be initiated to authorize an alternative telecommunications provider to serve the Ka'u area on the island of Hawaii. GTE was not prohibited from participating in the RFP process.

In the interest of expanding its presence in Hawaii and bringing to rural residents the benefits of a state-of-the-art telecommunications system, Western Wireless submitted a bid in response to the RFP released the HPUC.¹ Western Wireless' Personal Communications Service ("PCS") system in

¹ Western Wireless, as a Commercial Mobile Radio Service ("CMRS") provider, had certain reservations concerning the obligations that would be imposed upon the designated

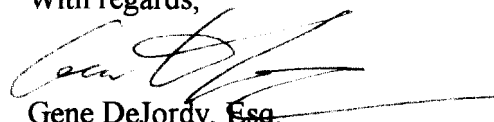
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the Honolulu Major Trading Area ("MTA") became the first auction-awarded PCS system to commence commercial operations in the United States. One day prior to the due date for bids and unbeknownst to potential bidders, GTE file a pleading with the HPUC in yet another attempt to block the HPUC from allowing the most qualified telecommunications service provider to serve the communications needs of residents of Ka'u, Island of Hawaii.

The events in Hawaii underscore the hypocrisy of the position taken by certain LECs -- LECs complain about the cost of serving rural and high-cost areas, but, at the same time, they fight to maintain their position as the monopoly provider in these very same areas. Western Wireless submits that LECs, rather than fighting competition, would be better served, and certainly the public interest would be better served, by cooperating with efforts to bring adequate telecommunications services to rural America. Western Wireless brings to the attention of the Commission the events in Hawaii as part of its on-going efforts in this proceeding to develop a competitive universal service market.²

An original and two copies of this notice are being filed with the Secretary. Should the Commission wish to discuss this or other universal service issues, Western Wireless would be pleased to meet with Commission staff.

With regards,



Gene DeJordy, Esq.
Director of Regulatory Affairs

Enclosures

cc: David Krech (FCC)
Gary Seigel (FCC)
Ted Burmeister (FCC)
Rafi Mohammed (FCC)
Pam Szymczak (FCC)
Jon Reel (FCC)
Doane F. Kiechel (Gurman, Blask & Freedman)

carrier, but chose to participate in the RFP process and cooperate with the HPUC in an attempt to constructively develop a framework for a competitive universal service market.

² Western Wireless submitted Comments in CC Docket 96-45 and recently had an *ex parte* meeting with Commission staff (see Notice of *Ex Parte* Communications, date June 6, 1996).

REQUEST FOR A PROPOSAL TO PROVIDE
TELECOMMUNICATIONS SERVICE
FOR KA'U, ISLAND OF HAWAII

Public Utilities Commission
State of Hawaii
April 30, 1996

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I. INTRODUCTION.

On September 29, 1992, the commission issued Order No. 11886, in Docket No. 7497, instituting an investigation of the telephone service provided by GTE Hawaiian Telephone Company Incorporated (GTE Hawaiian Tel) in the rural areas of the State of Hawaii. On November 2, 1994, the commission issued Decision and Order No. 13626, which found, among other things, that telephone service in the rural areas of the State is less than adequate, and directed GTE Hawaiian Tel to develop a plan to install facilities in all rural subdivisions to enable existing multi-party customers to convert to single-party lines within a three-year period.

Based on the commission's finding of the inadequacy of telephone service in the rural areas of the State, and pursuant to Act 80, 1994 Session Laws of Hawaii,¹ the commission opened Docket No. 94-036 by Order No. 13679, filed on December 12, 1994. The order directed GTE Hawaiian Tel to show cause why the commission should not authorize an alternative telecommunications provider for the rural areas of the State. An evidentiary hearing was held on July 17, 1995,² and on December 15, 1995, the commission issued Decision and Order No. 14415, in which the commission made the following determinations: (1) telecommunications carriers other than GTE Hawaiian Tel may seek authorization to provide telecommunications service in the rural areas of the State as an alternative provider of such service; (2) proposals to provide telecommunications service in the rural areas of the State shall be submitted in accordance with specifications established by the commission; (3) the first rural area for which an alternative telecommunications provider may be authorized shall be the Ka'u area on the island of Hawaii; and (4) GTE Hawaiian Tel shall not be precluded from submitting a proposal to service the Ka'u area.

The specifications below describe the objectives, scope, standards, and requirements of the telecommunications service to be provided in the Ka'u area, and provide instructions for the submission of a proposal by a telecommunications carrier to serve the Ka'u area as an alternative carrier.

¹Act 80 amended Hawaii Revised Statutes § 269-16.9 by adding a subsection (h), which mandates that "the commission, upon determination that any area of the State has less than adequate telecommunications service, shall require the existing telecommunications provider to show cause as to why the commission should not authorize an alternative telecommunications provider for that area."

²Participating in the hearing were GTE Hawaiian Tel; the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs; intervenors TelAlaska, Inc., Pacwest Telecommunications, and Time Warner Communications of Hawaii, L.P., dba Oceanic Communications; and participant USCOC of Hawaii 3, Inc. dba United States Cellular.

II. SPECIFICATIONS.

- A. **Objectives of the Telecommunications Service.** The objectives of the telecommunications service to be provided in the Ka'u area on the island of Hawaii are to:
1. Ensure the availability of **Basic Exchange Service** (as defined in section B below) and caller I.D. blocking, at a minimum, to all consumers in the Ka'u area at affordable, just, and reasonable rates;
 2. Enhance the availability of additional telecommunications services (besides Basic Exchange Service and caller I.D. blocking) to consumers in the Ka'u area;
 3. Provide telecommunications service in the Ka'u area that is equal in quality and reliability to comparable telecommunications service provided in the metropolitan areas of the State; and
 4. Upon establishment of Federal Communications Commission (FCC) regulations pursuant to 47 United States Code (U.S.C.) section 254 (h)(2), to the extent technically feasible and economically reasonable and in conformance with FCC regulations, offer to all public and non-profit elementary and secondary school classrooms, health care providers, and libraries situated in the Ka'u area, access to advanced telecommunications and information services.
- B. **Scope of Service.** The telecommunications service shall be designed to meet the criteria set forth below.
1. **Basic Exchange Service.** At a minimum, Basic Exchange Service shall be provided in the Ka'u area. Basic Exchange Service shall consist of single-line dial tone; touch tone dialing; operator service; access to enhanced 911; telecommunications relay service; telephone directory; and directory assistance service via 411 dialing. "Dial tone" means the ability to make or receive telephone calls with or without operator intervention; "single-line" means single-party line or one-party line; and "touch tone dialing" means dual tone multi-frequency signalling, as opposed to dial pulse signalling.
 2. **Caller I.D. Blocking.** Caller I.D. blocking shall be provided without charge to all customers on a per call basis. In addition, caller I.D. blocking on a per line basis shall be provided without charge to all customers requesting such blocking.

3. **Service Quality.** All telecommunications services provided shall conform to the standards relating to service quality set forth in this request for proposals (RFP) and attached to this RFP as Exhibit 2.
 4. **Service Area.** The geographic area to be provided the telecommunications services described in subsections 1 and 2 above is the Ka'u area on the island of Hawaii. For purposes of this RFP, the Ka'u area shall consist of those portions of the island of Hawaii that comprise GTE Hawaiian Tel's Ka'u exchange area, as described in its intrastate tariff no. 2, on file with the commission. The boundaries of the Ka'u area are generally depicted in the maps attached to this RFP as Exhibit 1. The Ka'u area is more particularly depicted in the maps on file and available for inspection at GTE Hawaiian Tel's regulatory offices at 1177 Bishop Street, Honolulu, Hawaii 96813. Telecommunications carriers submitting proposals are advised to contact GTE Hawaiian Tel's business offices for the detailed maps.
- C. **Designation of Selected Carrier.** On or before July 15, 1996, provided that the commission has not recalled or reissued this RFP, or rejected all of the proposals submitted, the commission will issue an order designating the telecommunications carrier whose proposal is accepted, as the Selected Carrier. The designation shall be subject to the following conditions:
1. **Authority.** The Selected Carrier shall be awarded the authority to provide the telecommunications services described in its proposal to the Ka'u area. The Selected Carrier shall be subject to all of the duties and obligations set forth attached Exhibit 3, provided, however, that if the Selected Carrier is a rural telephone carrier, as defined in 47 U.S.C. section 153, it shall not be required to comply with a request for access, interconnection, unbundling or resale unless (a) it receives a bona fide request for access, interconnection, unbundling, or resale, and (b) the commission determines the request is not unduly economically burdensome, is technically feasible, and is consistent with the provisions of 47 U.S.C. section 254 (other than subsections (b)(7) and (c)(1)(D)).
 2. **Obligation.** The Selected Carrier shall be required to:
 - a. Provide Basic Exchange Service and other telecommunications services on a non-discriminatory basis to all customers similarly situated or within a reasonably constituted class, according to any applicable commission standards or any tariffs on file with the commission.

- b. Upon the establishment of the FCC regulations pursuant to 47 U.S.C. section 254 (h)(2), to the extent technically feasible and economically reasonable and in conformance with FCC regulations, offer to all public and non-profit elementary and secondary school classrooms, health care providers, and libraries situated in the Ka'u area access to advanced telecommunications and information services.
- 3. **Commencement Date and Service Rates.** The order designating the Selected Carrier will specify the commencement date of the telecommunications services to be provided by the Selected Carrier, and the terms and conditions under which the Selected Carrier shall operate (including the Committed Rates, as defined in section III.B.4 below). The order will also specify that the Committed Rates shall remain unchanged for an initial period of three years, unless revised by the commission, at its discretion, for good cause shown by the Selected Carrier.
- 4. **Compliance with State Laws and Commission Rules and Orders.** The Selected Carrier shall be required to comply with all State laws and commission rules and orders currently in effect and that may be enacted, promulgated, and issued, that affect the Selected Carrier, its operations, and the telecommunications services provided by the Selected Carrier.
- 5. **Rescission for Nonperformance.** In the event the Selected Carrier is unable to successfully provide its proposed telecommunications service in the Ka'u area within a reasonable period of time, the commission may rescind its order designating the Selected Carrier, and designate another telecommunications carrier to serve the Ka'u area.
- 6. **Termination for Cause.** The commission for good cause may terminate the Selected Carrier's authorization to serve the Ka'u area at any time by giving six months prior written notice to the Selected Carrier. Good cause shall include, but shall not be limited to, such actions as: failure to meet the specifications set forth in this RFP; failure to comply with State law and commission regulatory requirements for the provision of telecommunications service; and gross mismanagement and material negligence in the provision of telecommunications service in the Ka'u area.

7. **Termination at the Option of Selected Carrier.** The Selected Carrier may, at its option, terminate the provision of telecommunications service to the Ka'u area upon giving six months prior written notice to the commission of its intent, and receiving approval from the commission to terminate its services.
- D. **Technical and Operational Standards.** The following technical and operational standards shall be met or exceeded by the telecommunications carrier serving the Ka'u area:
1. **Facilities and Equipment.** All necessary telecommunications facilities, equipment, and software necessary to provide Basic Exchange Service and caller I.D. blocking shall be offered in a manner sufficient to meet FCC and State regulatory standards.
 2. **System Design.**
 - a. The system shall be capable of adapting to improvements in communication equipment technology and to implementing state of the art technology for the provision of telecommunications service. In addition, the system shall use equipment and maintain staffing levels required to meet all FCC and State regulatory standards.
 - b. The system shall have the capability to accommodate any increased demand for access lines and types of services.
 - c. The system shall meet the reliability standards normally provided by the telephone industry, with sufficient alternative or redundant facilities to minimize outages and sufficient inventory of spare parts to minimize the duration of outages.
 3. **Network Access.** The telecommunications service provided in the Ka'u area shall be designed to include local and interisland toll calls that originate and terminate in Hawaii.
 4. **Equal Access to Interexchange Carriers.** All customers in the Ka'u area shall have access to their chosen interexchange carrier.
 5. **Service Quality and Reliability.** The telecommunications service provided to the Ka'u area shall conform to the quality and reliability standards set forth in attached Exhibit 2.

In particular, and without limitation, the Selected Carrier shall observe the following standards.

a. **Answering Calls.** The minimum standards are:

- (1) Answering 85 per cent of all calls made to the carrier's repair service department or business office within 20 seconds; and
- (2) Answering 85 per cent of all calls to interisland toll operators and directory assistance operators within 10 seconds.

b. **Customer Billing.** Customers shall be billed on a regular basis, as described in attached Exhibit 2. In addition, the Selected Carrier shall maintain billing information, as prescribed in attached Exhibit 2 and handle billing disputes in accordance with attached Exhibit 2.

E. **Functional Standards.** The telecommunications service provided in the Ka'u area shall meet the functional standards set forth in proposed attached Exhibit 2, including, without limitation, the following:

1. **Complaint Resolution and Enforcement.** Operating policies and procedures regarding complaint handling and resolution shall be established by the telecommunications carrier in accordance with attached Exhibit 2. The carrier shall receive trouble reports 24 hours a day and all other complaints during normal business hours, without toll or any other charge. All complaints shall be resolved within 30 days, and kept on file for two years following the final settlement or disposition of the complaint.
2. **Public Access to Information.** A telephone directory shall be published and distributed to all customers.

F. **Reporting Requirements.** The carrier shall file written reports to the commission in accordance with attached Exhibit 2.

III. PROPOSAL.

Each proposal shall contain the information described below.

- A. **Compliance with Standards and Requirements.** Each proposal shall describe, in detail, how the telecommunications service to be provided in the Ka'u area will meet or exceed the standards and requirements set forth in the specifications.
- B. **Information Regarding the Services to be Provided.**
 - 1. **Proposed Services.** Each proposal shall contain a detailed description of the services that the telecommunications carrier will commit to provide in the Ka'u area. The services to be provided shall include, at a minimum, Basic Exchange Service and caller I.D. blocking. Each proposal shall include an estimate of the number of customers that will be served in the Ka'u area, and an estimate of the number of access lines that will be needed to serve these customers.
 - 2. **Technical Facilities and Infrastructure.** Each proposal shall contain a detailed description of all equipment, plant, and outside plant facilities that the carrier intends to put in place, including, without limitation, the following:
 - a. A network diagram indicating the quantities and types of inbound and outbound circuits necessary to originate and complete the projected number of calls to and from the Ka'u area.
 - b. The number, type, and capacity of the central office switch(es) that the telecommunications carrier intends to use or install, and the time (from the date of the grant of authority) that it will take to put such equipment in service. The carrier shall indicate the maximum capacity, installed or equipped lines, and working lines.
 - c. Types of transmission facilities and the capacity of each.
 - d. Types of distribution facilities and capacity of each (including feeder cables, distribution cables, underground conduits, and overhead lines).
 - e. A detailed plan for any expansion, including the telecommunications carrier's plan for meeting all operational standards for service during any expansion. The plan shall

include, but not be limited to, expansion of facilities and staffing. The plan shall also indicate the time required to meet any increase in call traffic.

3. **Service Start-Up Plan.** Each proposal shall contain a detailed plan for implementing all of the services to be provided, including the time (from the date of the grant of authority) required to make each service available to customers in the Ka'u area. Each proposal shall also contain the amount of time required for the conversion of all existing multi-party lines to single-party lines, and projections for the addition of lines for anticipated new customers.
4. **Proposed Terms and Conditions of Service and Rates.** Each proposal shall contain proposed tariffs governing the telecommunications services to be provided in the Ka'u area. The tariffs shall describe in detail the services to be offered, the terms and conditions under which the services will be offered, the rates that will be charged, other recurring charges, and non-recurring charges related to the services. The carrier shall commit to provide for an initial three-year period the services described in its proposal at the rates and charges set forth in its proposed (Committed Rates).

Each proposal shall contain a comparison of the rates to be charged for Basic Exchange Service and any additional services that will be provided at no additional charge, and the actual cost of providing Basic Exchange Service and the additional services in the Ka'u area, and describe how the difference will be made up by the carrier.

5. **Revenue and Expense Projections.** Each proposal shall contain separate pro-forma financial schedules for an initial three-year period and a subsequent five-year period for (1) all services, and (2) Basic Exchange Service, which identify:
 - a. Revenues;
 - b. Expenses;
 - c. Plant-in-service and depreciation;
 - d. A computation of the carrier's weighted cost of capital;
 - e. A computation of the carrier's rate base and rate of return;
 - f. A tax computation; and

- g. A revenue requirement and calculation of proposed rates.

Expenses shall include the undepreciated value of GTE Hawaiian Tel's facilities as set forth in the company's Report on Actual, Historical Data for Ka'u, filed on February 2, 1996, and shall show the amortization of that amount.

- 6. **Subscriber Preference.** Each proposal shall indicate whether the telecommunications carrier has conducted a subscriber preference survey of the Ka'u area, and shall state the results, if any.
- 7. **Methodology and Assumptions.** Each proposal shall describe in detail the methodology used in developing all amounts, including the estimates and assumptions made in projecting revenues, expenses, the number of access lines, the increase in demand, the demand for the different types of service, revenues for different types of service, projected operating and administrative costs, and capital investment costs.

Each proposal shall show any subsidy from the federal universal service fund and/or any other source of funding, upon which the carrier intends to rely.

- 8. **Uniform System of Accounts.** All financial information and projections shall be presented using the Uniform System of Accounts for Telecommunications Companies contained in 47 U.S.C. part 32.

C. Information Regarding the Telecommunications Carrier.

- 1. **Identification of Carrier.** The proposal shall state:
 - a. The carrier's legal name and the location of the carrier's principal place of business; whether the carrier is a corporation, trust, association, or other organization; the state under whose laws the carrier is organized; and the carrier's federal taxpayer identification number.
 - b. If the carrier is a company owned or controlled by a parent company, the parent company's main office address and tax identification number
 - c. The name, title, and address of the person to whom all communications and correspondence to the carrier in regard to the proposal are to be addressed. Notices, orders, and other documents will be served upon the person named, and that

service shall be deemed service upon the carrier for all matters concerning the carrier and the commission.

2. **Carrier's Experience.** The proposal shall contain:
 - a. A detailed description of the carrier's background and prior experience in providing telecommunications services, including the carrier's experience in providing any of the telecommunications services described in the RFP
 - b. A detailed description of the types and nature of the telecommunication services that the carrier, its parent, or any of its affiliates (i.e. entities owned or controlled by the carrier's parent company) currently provides in Hawaii and other jurisdictions. The information shall be separated by jurisdiction, and shall describe the number of customers served by the carrier, its parent, or any of its affiliates.
 - c. If the carrier, its parent, or any of its affiliates has provided or provides service in the State or in other jurisdictions, a summary of all complaints filed against it, its parent, or any of its affiliates, describing the nature and resolution of each complaint.
 - d. A description of the regulatory authority under which the carrier, its parent, and any of its affiliates operates in the State or in other jurisdictions.
3. **Financial Information.**
 - a. Audited financial statements (or 10K Reports) for the most recent three years, including: a statement of income and retained earnings; a cash flow statement; a balance sheet; explanations of all notes and exceptions to the financial statements; and an opinion concerning the financial statements.
 - b. A detailed description of the carrier's sources of funding and the financial resources upon which the carrier will rely to fund the acquisition and/or construction of the equipment and infrastructure necessary for the provision of telecommunications service in the Ka'u area and for its operations. The proposal shall describe all commitments for funding, the status of all applications for funding, and the likelihood of obtaining funding.

4. **Organization, Management, and Personnel.** Each proposal shall contain an organizational chart of the carrier, depicting the levels and number of employees who will be employed to service the Ka'u area (whether located in Ka'u or elsewhere), together with a job description of each position and a detailed description of the technical support resources. The proposal shall describe briefly the experience of each person who will have management or operational responsibility for the carrier's Ka'u operations.
- D. **Temporary Certificate of Limited Authority.** If a telecommunications carrier does not possess a certificate of public convenience and necessity from the commission to provide intrastate telecommunications services, the proposal shall contain an application for a temporary certificate of limited authority, authorizing the carrier to participate in the RFP process. The application shall:
1. Include information on the carrier's financial ability to serve the Ka'u area, including a copy of the most recent audited financial statement and, if more than three months have elapsed since the date of the most recent audited financial statement, a current, unaudited financial statement; and
 2. Comply with all applicable commission orders and rules.
- E. **General Information.**
1. **Recall and Reissuance of the RFP.** The commission reserves the right to recall, amend, or reissue this RFP
 2. **Rejection of All Proposals.** The commission reserves the right to reject all proposals.
 3. **Confidential Information.** Should the nature of the information and data to be submitted to the commission be considered confidential by the carrier, the information may be submitted under protective cover.
 4. **Request for Additional Information.** The commission reserves the right to make written or oral requests for additional information from any carrier to assist in understanding or clarifying the carrier's proposal. Any received information shall not be considered in the evaluation of a carrier's proposal if it materially alters the content of the proposal.
 5. **Submittal of Proposal.** All proposals in response to this RFP shall be submitted to the commission no later than 4:00 p.m. on May 31, 1996. The official time shall be that recorded on the time stamp clock at the

commission. No proposals shall be accepted after the time specified, regardless of the method of delivery. No proposals shall be accepted by facsimile.

Telecommunications carriers shall submit an original and nine copies of their proposals to the following address:

Public Utilities Commission
State of Hawaii
Kekuanao'a Building, Room 103
465 South King Street
Honolulu, Hawaii 96813

IV. EVALUATION OF PROPOSALS.

A. The commission will review the proposals as follows:

1. **Internal Strengths.** Evaluation of the telecommunications carrier's internal strengths, i.e., organization, financial backing, technical facilities (adequacy, type, quality, and reliability), operations expertise, and management and administrative experience. Failure to pass this **threshold review** will result in rejection of the proposal by the commission.
2. **External Strengths.** Provided the telecommunications carrier passes the above-mentioned threshold review, evaluation of the carrier's external strengths, i.e., proposed rates (lowest bid) and rate design, track record, demonstrated alertness to consumer needs and desires, consumer preferences, impact on entities other than competing applicants, and local ownership control.
3. **Miscellaneous Indicia of Fitness and Ability.** Finally, evaluation of such miscellaneous factors as first in the field status, first in the proposal process, quality of proposal, ongoing regulatory control, and overall general fitness.

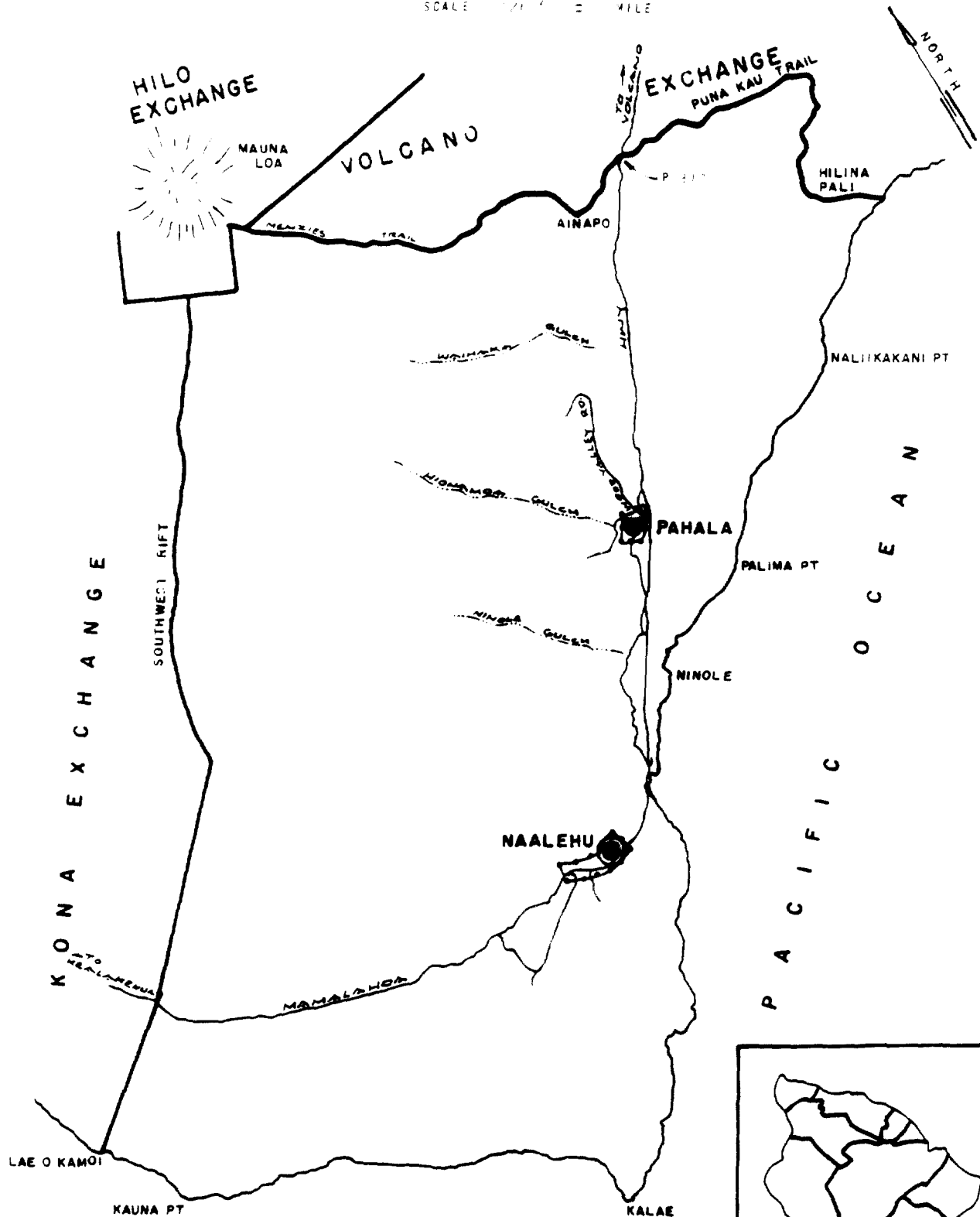
B. The commission may contract the services of one or more consultants to conduct this review of the proposals and to rank order the proposals.

Exhibit 1

Maps

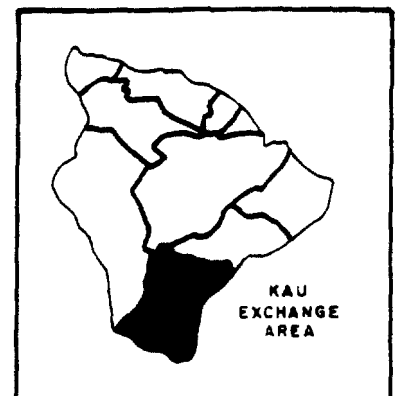
KAU, HAWAII EXCHANGE AREA

SCALE 1/2" = 1 MILE



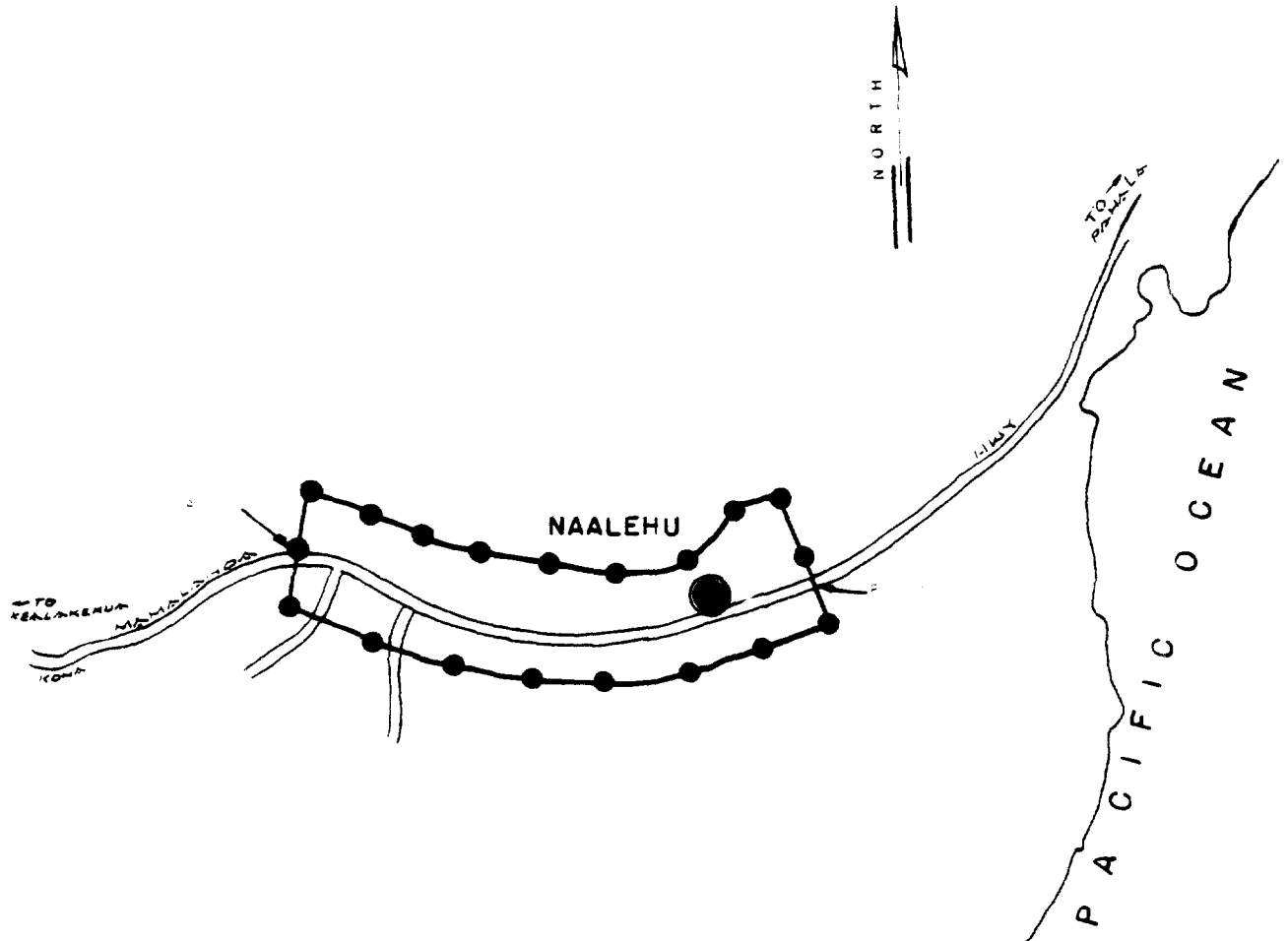
LEGEND:

- Exchange Boundary
- Base Rate Area Boundary
- Central Office
- ⊙ Rate Center & Central Office



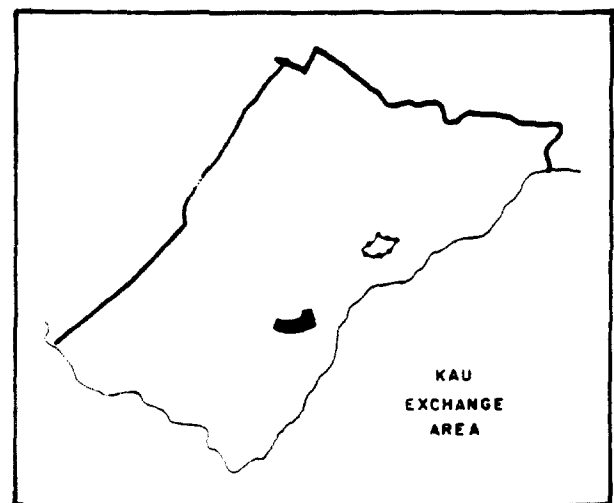
N A A L E H U, H A W A I I
B A S E R A T E A R E A

SCALE " = MILE



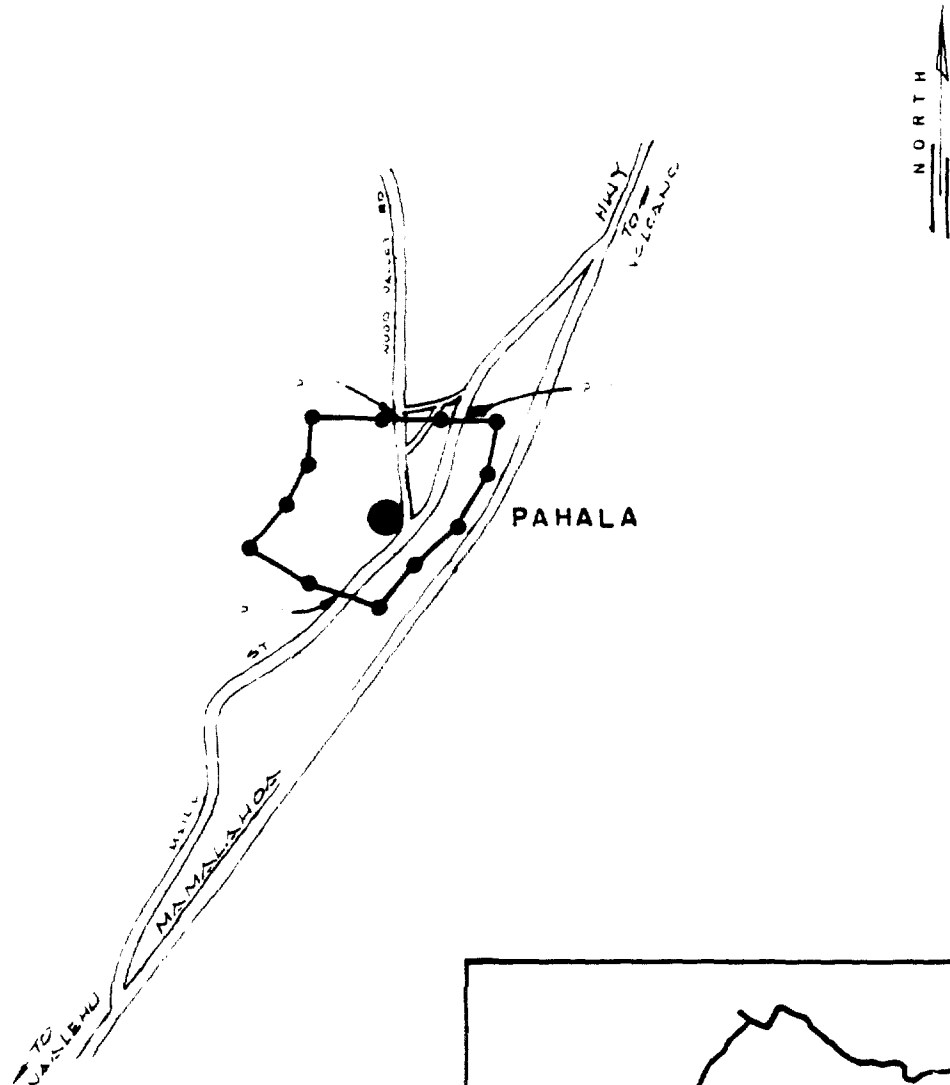
LEGEND.

- Base Rate Area Boundary
- Rate Center & Central Office



PAHALA, HAWAII
BASE RATE AREA

SCALE 1" = 1 MILE



LEGEND:

- Base Rate Area Boundary
- Central Office

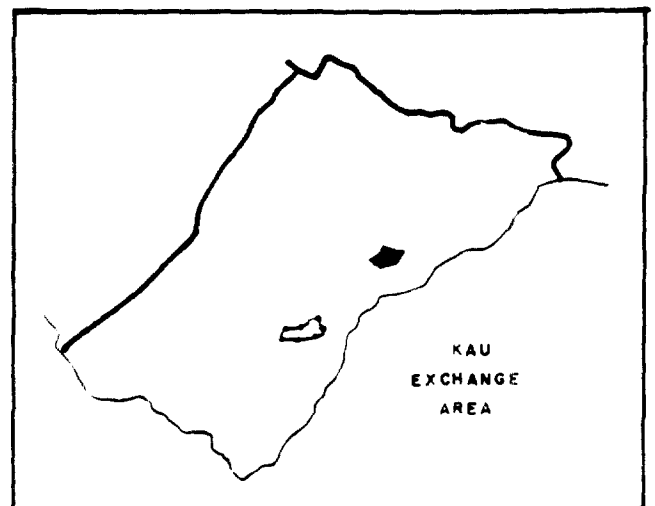


Exhibit 2

STANDARDS FOR TELECOMMUNICATIONS SERVICE

- 1 Standards for telecommunications service - sources. (a) Telecommunications carriers shall abide by and adhere to:
- (1) The standards set forth in this subchapter;
 - (2) The standards set forth in part VII of the commission's general order number 8, dated December 20, 1972, as amended, to the extent applicable and not inconsistent with this chapter;
 - (3) Any other standards or rules that the commission may establish or adopt from time to time governing telecommunications services; and
 - (4) Any applicable federal standards.
- (b) Any waiver or exemption from the standards referred to in subsection (a) is subject to subchapter 12. The burden is on the telecommunications carrier seeking the waiver or exemption to prove that the waiver or exemption is in the public interest.
- (c) Where a telecommunications carrier supplied service to a customer before the effective date of this subchapter under conditions more favorable or advantageous to the customer than the minimum levels of service provided in this subchapter, whether as to contracted quality or character of service, the carrier shall not reduce the level of service without the prior approval of the commission.
- (d) The commission may, by rule or order, add to the standards set forth in this subchapter.

- 2 Operating standards for telecommunications service - general. A telecommunications carrier shall:
- (1) Provide telecommunications services on a non-discriminatory basis to all customers similarly situated or within a reasonably constituted class, according to any applicable commission standards or any tariffs on file with the commission;
 - (2) Employ prudent management and engineering practices that ensure the availability of sufficient facilities and personnel to achieve the standards of service quality required by prudent telecommunications industry practice, and this chapter;
 - (3) Provide telecommunications service in its service exchange twenty-four hours a day. The carrier shall provide sufficient equipment and operating capabilities at all times, including during the average busy hour and average busy season. As used in this paragraph, "busy hour" means the hour each day during which the greatest volume of traffic is handled in the central office, and "busy season" means the consecutive thirty-day period of the year during which the greatest volume of traffic is handled in the central office;
 - (4) Design, construct, install, operate, and maintain its plants, facilities, and equipment in a manner consistent